THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.17982 OF 2005

DATED: 10-04-2006

BETWEEN

Mrs. Rafeeq Fatima,

W/o. Mr. Imtiyaz Uddin Ahsan,

R/o. 18-1-544, Kandikalgate,

Hyderabad.

…PETITIONER

AND

The Commissioner,

Municipal Corporation of Hyderabad,

Tank Bund Road, Hyderabad and

another.

…RESPONDENTS

ORDER:

Petitioner seeks a Writ of Certiorari to quash the notice of the respondents bearing Lr.No.167/RW/ACP/C2/MCH/2005 dated 06.07.2005 to hand over the possession of the property bearing Municipal No.21-2-356/2 admeasuring 25 Sq. yards situated at Main Road Lad Bazar, Hyderabad.

Learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the aforementioned premises and the same is located on the main road of Lad

Bazar. While so, the respondents issued the impugned notice directing the petitioner to hand over the said premises to MCH for the proposed widening of the road from Gulzar House to Motigalli via Mitti-Ka-Sher. He further submits that the premises of the petitioner is 500 ft beyond the road leading from Gulzar House to Motigalli via Mitti-Ka-Sher, which is proposed to be widened and the proposed widening is to the effect of 40' only and by any stretch of imagination the road widening would not affect the premises of the petitioner, as the premises of the petitioner is not in the line of the proposed widening of the road. Therefore, mentioning the address of the petitioner's premises as Motigalli road in the notice of the second respondent is misleading and in the garb of road widening the respondents are trying to dispossess the petitioner. The impugned notice itself is very vague as it mentions only the extent of the property but not the direction.

I am of the opinion that the impugned notice is not a final notice and it is only a notice proposing to acquire the property of the petitioner to an extent of 22.36 sq. yards without mentioning any direction. Therefore, it is open for the petitioner to file a representation before the second respondent alleging the misgivings and on such a representation being filed, if any, within ten days from the date of receipt of this order, the second respondent shall enquire into the said allegations and take appropriate action and if it is necessary for road widening, acquire the said property either by way of an agreement or by giving the benefit in lieu of the land value, relaxation in addition to FSI as per the orders in G.O.Ms.No.483 MA dated 24.05.1998 and G.O.Ms.No.423 MA dated 31.07.1998 and if the petitioner does not agree for the aforesaid proposals, the respondents as well can acquire the land under the Land Acquisition Act, 1894. No costs.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 10, 2006

DSK